

# EXHIBIT E

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2. The Asserted Claims are claims 18 and 19 of the '775 Patent; claims 7 and 8 of the '690 Patent; claims 1, 2, 3, 4, 5 and 6 of the '008 Patent; claims 11 and 12 of the '362 Patent; claims 1, 6, 8 and 9 of the '826 Patent; and claims 1, 2, and 3 of the '682 Patent.

3. The [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]" Ex. A, [REDACTED] at 2.

4. The [REDACTED]

[REDACTED]  
[REDACTED]" *Id.*

5. The [REDACTED]

[REDACTED]  
[REDACTED]" *Id.*

6. [REDACTED]

[REDACTED]  
[REDACTED]

7. In order to reach his conclusion that certain of the Patents-in-Suit were essential to the alleged DOCSIS specifications, Dr. Almeroth compared the claims of the Patents-in-Suit to Entropic's infringement contentions. Ex. C, Almeroth Tr. at 49:8-11.

8. Charter is able to deploy DOCSIS compatible cable modems without utilizing [REDACTED]

[REDACTED] Boglioli Tr. at 163:10-25, 164:12-166:10.

9. Charter is able to deploy DOCSIS compatible cable modems without utilizing

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a characteristic of said received signal; and"

Aside from ENTROPIC\_CHARTER\_0002505 and BCM0000153, the documents above were created and produced by Charter. None of the documents above are DOCSIS specifications or are created by

'826 Patent 1(h) -  
"controlling the transmission of network management messages back to said headend based on said measured characteristic of said received signal, wherein said measured characteristic is different than said network management messages."

Aside from ENTROPIC\_CHARTER\_0002505 and BCM0000153, the documents above were created and produced by Charter. None of the documents above are DOCSIS specifications or are created by

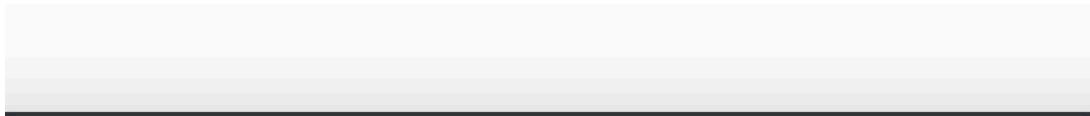
'682 Patent 1(c) -  
"assigning, by said CMTS, each cable modem among a plurality of service

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**EXHIBIT A - D**

**FILED UNDER SEAL**



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TABLE OF EXHIBITS<sup>1</sup>

Exhibit	Description
A	[REDACTED] Dkt. 177-2.
B	Excerpts of the deposition transcript of [REDACTED], dated August 11, 2023. Dkt. 177-3.
C	Excerpts of the deposition transcript of Dr. Kevin Almeroth, dated August 23, 2023. Dkt. 177-4.
D	Opening Expert Report of Dr. Kevin Almeroth Regarding Licenses and Non-Infringing Alternatives, served on July 21, 2023. Dkt. 177-5.
E	Opening Expert Report of David O. Taylor Regarding Charter's Defenses, served on July 21, 2023.
F	Rebuttal Expert Report of Dr. Shukri Souri Regarding Licensing And Non-Infringing Alternatives, served on August 11, 2023.
G	Excerpts of the deposition transcript of [REDACTED], dated August 11, 2023. Dkt. 177-3.
H	Opening Expert Report of Dr. Shukri Souri Regarding Infringement of the '008, '682, '690, and '826 Patents, served on July 21, 2023.
I	CHARTER_ENTROPIC00214282
J	CHARTER_ENTROPIC00290917
K	Excerpts of the deposition transcript of [REDACTED] dated June 6, 2023.
L	Excerpts of the deposition transcript of [REDACTED], dated June 27, 2023.
M	CHARTER_ENTROPIC00244578
N	CHARTER_ENTROPIC00291564
O	CHARTER_ENTROPIC00476675
P	Excerpts of the deposition transcript of Dr. Kevin Almeroth, dated August 23, 2023. Dkt. 177-4.
Q	Excerpts of the Declaration of Dr. Kevin Almeroth Regarding Claim Construction, dated April 4, 2023.
R	Opening Expert Report of Dr. Richard A. Kramer Regarding Infringement, dated July 21, 2023.
S	United States Patent No. 8,792,008.
T	United States Patent No. 9,825,826.
U	CHARTER_ENTROPIC00369071
V	Excerpts of the deposition transcript of Dr. Shukri Souri, dated August 18, 2023.
W	Rebuttal Expert Report of Dr. Kevin Almeroth Regarding Non-Infringement, dated August 11, 2023.
X	Exhibit F from Entropic's 2nd Supplemental Infringement Contentions, dated June 23, 2023.

<sup>1</sup> Exhibits A–D were filed with Entropic's opening motion (Dkt. 177).

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**I. INTRODUCTION**

Entropic's infringement contentions rely on [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED] Entropic's motion for summary judgment (Dkt. 177, the "Motion" or "Mot.") should, therefore, be denied.

Entropic fails to cite a single case supporting its theory that a license can only be shown if

[REDACTED]  
[REDACTED] Nor does it even attempt to offer an interpretation of the contract that would support its fabricated element-by-element test. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**II. RESPONSE TO ENTROPIC'S STATEMENT OF THE ISSUE**

Charter accepts Entropic's statement of the question to be decided.

**III. RESPONSE TO ENTROPIC'S STATEMENT OF UNDISPUTED FACTS ("RESP. SUF")**

1-2. Undisputed.

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

9. Disputed, incomplete. [REDACTED]

[REDACTED]

10. Disputed, argumentative, incomplete. Almeroth's opinions on the [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

11. Disputed, argumentative, incomplete. Almeroth's opinions on the [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12. Disputed, argumentative, incomplete. Almeroth's opinions on the [REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]  
[REDACTED].

13. Disputed, argumentative, incomplete. Almeroth's opinions on the [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

14. Disputed, argumentative, incomplete. Almeroth does not render any opinion on the

[REDACTED]  
[REDACTED]

**IV. ADDITIONAL FACTS THAT WARRANT DENIAL OF ENTROPIC'S  
MOTION ("ADD. SOF")**

1. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

2. [REDACTED]  
[REDACTED]

3. [REDACTED]  
[REDACTED]

4. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

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5. [REDACTED]

6. [REDACTED]

7. [REDACTED]

8. [REDACTED]

9. [REDACTED]

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<sup>3</sup> Emphasis added.

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## V. ARGUMENT

**A. Whether Charter Has A License Is A Question Of New York Contract Law, Not Federal Patent Law As Entropic Urges**

Entropic's motion asserts that, to prove

[REDACTED] Entropic is wrong on the facts and the law. In particular, Entropic confuses the issue of patent infringement, which requires proof that every claim element is present in an accused device, [REDACTED]. The former is a question of federal patent law, while the latter is a question of contract interpretation under state law.

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[REDACTED], and summary

judgment on the '690 license defense should be denied.

Furthermore, even if—

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Entropic further argues that

Almeroth conducted the analysis required to determine whether the '008 and '826 patents are [REDACTED]." His testimony far exceeds what is necessary to create a genuine issue of fact. [REDACTED]

cannot, according to Entropic, do so without infringing its '008 and '826 patents. If true, as it asserts, then Entropic's patents are

3. '682

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5. Attached as **Exhibit H** is a true and correct copy of excerpts of the Opening Expert Report of Dr. Shukri Souri Regarding Infringement of the '008, '682, '690, and '826 Patents, served on July 21, 2023.
6. Attached as **Exhibit I** is a true and correct copy of [REDACTED].
7. Attached as **Exhibit J** is a true and correct copy of [REDACTED].
8. Attached as **Exhibit K** is a true and correct copy of excerpts of the deposition transcript of [REDACTED]
9. Attached as **Exhibit L** is a true and correct copy of excerpts of the deposition transcript of [REDACTED].
10. Attached as **Exhibit M** is a true and correct copy of [REDACTED]
11. Attached as **Exhibit N** is a true and correct copy of [REDACTED]
12. Attached as **Exhibit O** is a true and correct copy of [REDACTED]
13. Attached as **Exhibit P** is a true and correct copy of excerpts of the deposition transcript of Dr. Kevin Almeroth, dated August 23, 2023. Dkt. 177-4.
14. Attached as **Exhibit Q** is a true and correct copy of excerpts of the Declaration of Dr. Kevin Almeroth Regarding Claim Construction, dated April 4, 2023.
15. Attached as **Exhibit R** is a true and correct copy of excerpts of the Opening Expert Report of Dr. Richard A. Kramer Regarding Infringement, dated July 21, 2023.
16. Attached as **Exhibit S** is a true and correct copy of United States Patent No. 8,792,008.
17. Attached as **Exhibit T** is a true and correct copy of United States Patent No. 9,825,826.
18. Attached as **Exhibit U** is a true and correct copy of [REDACTED]
19. Attached as **Exhibit V** is a true and correct copy of excerpts of the deposition transcript of Dr. Shukri Souri, dated August 18, 2023.